

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
Z. GALOIAN,) OTA NO. 21078262
)
)
 APPELLANT.)
)
)
 _____)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Wednesday, April 27, 2022

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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APPEARANCES:

Panel Lead: ALJ SUZANNE BROWN

Panel Members: ALJ ANDREW KWEE
ALJ ANDREA LONG

For the Appellant: GEORGE ISSA
Z. GALOIAN

For the Respondent: STATE OF CALIFORNIA
Department OF TAX AND
FEE ADMINISTRATION

RAVINDER SHARMA
KEVIN SMITH
JASON PARKER

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I N D E X

E X H I B I T S

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California; Wednesday, April 27, 2022

1:15 p.m.

JUDGE BROWN: We are on the record today in the appeal of Zaven Galoian. This is OTA Case Number 21078262. Today is Wednesday, April 27th, 2022, and it is approximately 1:15 p.m.

My name is Suzanne Brown. I am the lead ALJ who will conducting the hearing for this case before the Office of Tax Appeals. And my co-panelists are Judge Andrea Long and Judge Andrew Kwee.

First, I will ask each participant -- each party to identify themselves for the record, and I will start by asking all of the CDTFA representatives to please identify themselves for the record.

CDTFA, can you each go ahead.

MR. SHARMA: This is Ravinder Sharma, Hearing Representative for CDTFA. Thank you.

MR. PARKER: This is Jason Parker, Chief of Headquarters Operations Bureau with CDTFA.

MR. SMITH: Kevin Smith, Tax Counsel from the CDTFA legal Department.

JUDGE BROWN: This is Judge Brown. Thank you.

Next, I will ask Appellant and his representative to each identify themselves for the record one at a time.

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Mr. Issa, can you go first, please?

MR. ISSA: Yeah. My name is George Issa,
I-s-s-a. I am representative for Mr. Galoian.

JUDGE BROWN: This is Judge Brown. Thank you.

And, Mr. Galoian, can you identify yourself,
please.

MR. GALOIAN: Yes. This is Zaven Galoian. I am
Hollywood Collision Center. I am the owner.

JUDGE BROWN: This is Judge Brown. Thank you
both very much.

MR. ISSA: Thank you.

JUDGE BROWN: Thank you.

I will just explain a few more logistical things.
I will remind everyone that this hearing is being
conducted today before the Office of Tax Appeals or OTA.
OTA is an independent agency that is separate from the
California Department of Tax and Fee Administration, which
is also known as CDTFA. Because OTA is a separate agency
from CDTFA, arguments and evidence heard before CDTFA are
not necessarily part of the record before us here at OTA.

This appeal will be decided by a panel of three
Administrative Law Judges, all of whom are employed by
OTA. The panel will issue a written opinion that will be
based upon the briefs the parties have submitted to OTA,
the exhibits that will be admitted into evidence, and the

1 arguments presented at the hearing today. While I am the
2 lead ALJ for purposes of conducting this hearing, all
3 three ALJs will have an equal vote in deciding the issues
4 in this appeal.

5 Now, I would like to confirm the issues for this
6 hearing. We had a prehearing conference in this matter,
7 and afterwards I issued a document titled, "Prehearing
8 Conference Minutes and Orders." And that was sent to the
9 parties by email on April 14th, and that confirmed the
10 various topics that we discussed during the prehearing
11 conference.

12 Mr. Issa, can I ask, can you confirm that you
13 received the prehearing conference minutes and orders that
14 my office emailed to you?

15 MR. ISSA: Yes, we did receive it.

16 JUDGE BROWN: This is Judge Brown. Thank you
17 very much.

18 MR. ISSA: Thank you.

19 JUDGE BROWN: I will then just review that as we
20 discussed at the prehearing conference and confirmed in
21 the prehearing conference minutes and orders, there are
22 two issues for the hearing today. And the first issue is
23 whether any adjustment to the amount of unreported taxable
24 sales for the liability period is warranted. And the
25 second issue is whether the negligence penalty was

1 properly imposed.

2 Mr. Issa, can you confirm that that's your
3 understanding of the issues as well?

4 MR. ISSA: Yes.

5 JUDGE BROWN: And, CDTFA, can you confirm that is
6 the correct statement of the issues?

7 MR. SHARMA: Yes. This is Ravinder Sharma. That
8 is Department's understanding. That is correct. Thank
9 you.

10 JUDGE BROWN: This is Judge Brown. Thank you
11 both.

12 Then since I've confirmed what the issues are, I
13 next want to move on addressing the exhibits. We have
14 documentary exhibits that are perfectly posed for
15 admission into evidence. And as I explained during and
16 confirmed in my prehearing conference minutes and orders,
17 OTA's regulations require that proposed exhibits must be
18 submitted at least 15 days in advance of the hearing.

19 And as I also explained during the prehearing
20 conference, when we talk about admitting exhibits into
21 evidence, what it means is that these are the documents --
22 the evidence that the panel can consider when we are
23 making our findings in this case. And it doesn't
24 necessarily mean that we -- that if the parties agree to
25 admission of evidence, that they agree that everything in

1 the documents is correct. They just agree that this
2 evidence that the panel can consider, and the panel will
3 examine the documents and consider the evidentiary weight
4 that is warranted for the exhibits.

5 The only proposed exhibits that we have received
6 in this case are from CDTFA, and they are Exhibits A, B,
7 C, and D. There are only four exhibits. Since there are
8 only four, I will just identify each of them. Exhibit A
9 is the audit working papers and related document. Exhibit
10 B is the Notice of Determination. Exhibit C is the
11 Petition For Redetermination, and Exhibit D is the Appeals
12 Bureau's decision. In addition, we did receive briefs
13 from both parties, and the panel will consider those
14 briefs, but we don't consider them evidence. They are
15 argument.

16 Regarding the Exhibits A, B, C, and D, CDTFA
17 previously submitted these exhibits to OTA and to
18 Appellant back in 2021, and during the prehearing
19 conference, Appellant confirmed that he had received these
20 exhibits. And then on April 14th, OTA sent both parties
21 an email that had a link to another copy of these
22 exhibits. I want to ask Appellant and Appellant's
23 representative, Mr. Issa, does Appellant have any
24 objection to admission of CDTFA's Exhibits A, B, C, and D
25 into evidence so that the panel can consider these

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documents?

Mr. Issa, do you have any objection to the documents -- to the exhibits being admitted?

MR. ISSA: No, I have no objection.

JUDGE BROWN: This is Judge Brown. Thank you.

Since there is no objection, I will admit CDTFA's Exhibits A through D into evidence.

(Department's Exhibits A-D were received in evidence by the Administrative Law Judge.)

And also, I will confirm, Mr. Issa, Appellant is not admitting any of its own exhibits into evidence. Appellant is just planning on relying on CDTFA's exhibit; is that correct?

MR. ISSA: Yes.

JUDGE BROWN: Okay. Thank you.

And I will remind you, Mr. Issa, and Mr. Galoian also, if you can each identify yourselves before you speak so that the stenographer knows who is speaking.

Next, I --

MR. ISSA: My name --

JUDGE BROWN: Oh, sorry. Go ahead.

MR. ISSA: My name is George Issa.

JUDGE BROWN: Thank you.

MR. ISSA: Yeah. Yeah.

JUDGE BROWN: This is Judge Brown. Next, I will

1 confirm with CDTFA that CDTFA does not have any additional
2 exhibits to submit into evidence today; is that correct?

3 MR. SHARMA: Yes. This is Ravinder Sharma.
4 That's correct. Thank you.

5 JUDGE BROWN: This is Judge Brown. Thank you.
6 Next, I will move on to -- now that I have admitted the
7 exhibits into evidence, I will move on to discussing who
8 the witness -- the testimony for today.

9 First, I will confirm with CDTFA that CDTFA is
10 not calling any witnesses; is that correct.

11 MR. SHARMA: This is Ravinder Sharma. That's
12 correct. Thank you.

13 JUDGE BROWN: This is Judge Brown. Thank you.
14 And next, I will ask Appellant, Mr. Issa, we discussed
15 during the prehearing conference that you will be calling
16 Mr. Galoian to testify as a witness today; correct?

17 MR. ISSA: Yes, that is.

18 JUDGE BROWN: And, again, if I can ask you to say
19 your name so the stenographer will know who is speaking.

20 MR. ISSA: Oh, my name is George Issa. I confirm
21 that.

22 JUDGE BROWN: Thank you. This is Judge Brown.

23 MR. ISSA: Thank you.

24 JUDGE BROWN: And, Mr. Issa, I anticipate that
25 you are going to speak first and make an argument and then

1 have Mr. Galoian testify; is that correct?

2 MR. ISSA: Yes, ma'am.

3 JUDGE BROWN: And, Mr. Issa, if you recall we
4 discussed during the prehearing conference about what
5 format you were going to use for Mr. Galoian's testimony.
6 I asked you to think about whether his testimony will just
7 be him speaking or whether you want to be asking him
8 questions that he can answer or some combination of both.
9 Do you know what format you want to use?

10 MR. ISSA: No, I don't. I'm sorry.

11 JUDGE BROWN: Okay. Well, how about -- this is
12 Judge Brown. You can start by making an argument, and
13 then you can let Mr. Galoian testify. And if you want to,
14 once he has given his testimony, if there's anything that
15 you want to ask him, you can follow up with that. Does
16 that sound like look a good plan?

17 MR. ISSA: Yes. Yes, ma'am. Yes.

18 JUDGE BROWN: Okay. Thank you. This is
19 Judge Brown.

20 MR. ISSA: Thank you.

21 JUDGE BROWN: And then I will remind the
22 participants that after Mr. Galoian testifies, both CDTFA
23 and the Administrative Law Judges will have an opportunity
24 to ask questions of the witness. And then in contrast,
25 because CDTFA is not calling any witnesses to testify, we

1 won't have any witness examination after CDTFA's
2 presentation. But after CDTFA's presentation, Appellant
3 will have the opportunity to make a rebuttal and respond
4 to CDTFA's argument.

5 This is Judge Brown again. Since I've covered
6 the logistics about witness testimony, I'm just going to
7 just briefly remind everyone of our schedule today, and
8 then we can move on and hear the parties' presentations.
9 The order of events today will be as follows:

10 We'll have Appellant's presentation and witness
11 testimony, and we have an estimate that will take about
12 20 minutes. And then we will have the examination of the
13 witness and any questions from CDTFA or the Administrative
14 Law Judges. And then after, that we'll listen to CDTFA's
15 presentation which we anticipate will take about
16 20 minutes. Then there may be questions --

17 MR. ISSA: I'm sorry. I'm sorry to interrupt
18 you. What did you say the name CDTFA?

19 JUDGE BROWN: Oh. This is Judge Brown.
20 Mr. Issa, I said after -- after you make your presentation
21 and Mr. Galoian testifies, we will then we can -- we can
22 then have questioning of Mr. Galoian as a witness, and
23 then we will have CDTFA's presentation. CDTFA will make
24 an argument, and then the Administrative Law Judges may
25 have questions for CDTFA. And then when we are done with

1 that, then it will be time for Appellant to make a final
2 closing argument, including any rebuttal. And then we
3 will be done for the day with the hearing.

4 Does anyone have questions?

5 Mr. Issa, do you have any questions about
6 anything that I've covered about how this hearing works?

7 MR. ISSA: No. You did a very good job, Judge.
8 I like to listen to you.

9 JUDGE BROWN: This is Judge Brown. Thank you
10 very much.

11 All right. And I'll say, CDTEFA, do you have any
12 questions or anything that should you want to raise before
13 we begin with the presentations?

14 MR. SHARMA: This is Ravinder Sharma. The
15 Department has no question. Thank you.

16 JUDGE BROWN: Okay. Thank you, everyone.

17 What I will do before -- Mr. Issa, you can -- in
18 just a minute I'm going to say that you can go ahead and
19 make your argument and then present Mr. Galoian's
20 testimony. What I will do before you start is I will
21 swear in Mr. Galoian as a witness so that he is ready to
22 go and testify once you are done making your argument.

23 Mr. Galoian, can you hear me?

24 MR. GALOIAN: Yes, I can hear you.

25 MR. ISSA: He can. Yes.

1 MR. GALOIAN: Can you hear me?

2 JUDGE BROWN: This is Judge Brown. Yes. Can you
3 identify yourself for the record.

4 MR. GALOIAN: Yes. This is Zaven Galoian of
5 Hollywood Collision Center.

6 JUDGE BROWN: This is Judge Brown. Thank you.
7 Mr. Galoian, I can't see you, but can I ask you to please
8 raise your right hand so that I can swear you in as a
9 witness.

10 MR. GALOIAN: Okay.

11 JUDGE BROWN: This is Judge Brown.

12

13 ZAVEN GALOIAN,

14 produced as a witness, and having been first duly sworn by
15 the Administrative Law Judge, was examined and testified
16 as follows:

17

18 JUDGE BROWN: This is Judge Brown. Thank you
19 very much.

20 Mr. Issa, you may begin your presentation
21 whenever you are ready. And I will just remind each of
22 you, Mr. Issa and Mr. Galoian, when you switch speakers
23 can you -- when you start speaking can you say your name
24 so that the stenographer knows who is speaking.

25 MR. ISSA: Yes.

1 JUDGE BROWN: Thank you. Mr. Issa, you can --
2 oh, hold on a minute. We have some background noise.

3 (Wherein a cell phone is ringing.)

4 MR. GALOIAN: We can continue.

5 JUDGE BROWN: This is Judge Brown. I will say,
6 Mr. Issa, if you are ready, then I can go ahead with your
7 presentation.

8

9 PRESENTATION

10 MR. ISSA: Okay. You know, the sales tax, I had
11 to pay it by myself. There's nothing wrong with it
12 because I have done the sales tax for so many years, and
13 it is done in my office. I believe that there is
14 invoices. These invoices are perfect. The discrepancy is
15 in declaring the sales tax given to the client. What I
16 offered here is the fact that since the customer has
17 changed from the sales tax with the increase, and what is
18 the error I make.

19 I don't know where is the error I made by myself,
20 because of all the receipts I receive from my client, they
21 are perfect. And I declare the same amount of sales tax
22 that I receive from the client. There's also a
23 discrepancy in the difference between what I have declared
24 to the government and what our money deposit in the bank
25 statement. I concur to that. That, you know, there's a

1 difference, and I concur to that difference.

2 But this amount was about maybe -- I don't know
3 how much, you know. It's about maybe \$50,000. This
4 amount is not fully taxable because this amount is 40 to
5 50 percent taxable labor and parts.

6 JUDGE BROWN: This is Judge Brown. Mr. Issa, is
7 that the end of your presentation, and then do you want to
8 switch to having Mr. Galoian testify?

9 MR. ISSA: Then I -- I also disagree with the
10 penalty, you know. The penalty should not be imposed on
11 my client. Because, you know, we did it in -- in a good
12 faith. And so, you know, it's unbelievable that, you
13 know, we -- we did any intentional move to avoid any sales
14 tax whatsoever. That -- this is my only the -- the
15 difference I have.

16 JUDGE BROWN: This is Judge Brown. Thank you,
17 Mr. Issa. And as I said, now I think we can hear
18 Mr. Galoian's testimony.

19 Mr. Galoian?

20 MR. GALOIAN: Yes, ma'am.

21 JUDGE BROWN: Mr. Galoian, can you identify
22 yourself for the record.

23 MR. GALOIAN: Yes. I am Zaven Galoian owner of
24 Hollywood Collision Center on the --

25 JUDGE BROWN: And Mr. Galoian?

1 MR. GALOIAN: Yes.

2 JUDGE BROWN: This is Judge Brown. I was just
3 going to say, you remember a moment ago I swore you in as
4 a witness, so now you can begin your testimony.

5

6 WITNESS TESTIMONY

7 MR. GALOIAN: My testimony. I know Mr. Issa a
8 very, very long time. I know him about -- about 40 years
9 he's doing bookkeeping. 40 years I know him, and I don't
10 have any problems. He has very good experience, and I
11 never have a problem with him. And I'm -- this is first
12 time this happening, and everything, what I have, what I
13 charge to the customer, all the estimates and the
14 invoices, everything I'm bringing to Mr. Issa. He's doing
15 his bookkeeping.

16 That's what's going on with me and Mr. Issa.
17 Like, you know, that's -- that's it. Nothing else I
18 can -- I can say. I know him very, very long time, and
19 he's a very good man. And all these years I'm using him,
20 I never have problems with him.

21 JUDGE BROWN: Thank you. This is Judge Brown.

22 Mr. Issa, do you want to have Mr. Galoian answer
23 any questions of anything you think that he didn't cover?

24 MR. ISSA: No ma'am. I have no questions to ask
25 you because this is the -- basically, the first time --

1 maybe the second time in my life that I -- I do sales tax
2 and they get audited. Usually I -- anyone who plays with
3 me, any customer who plays with me I let him go. I don't
4 do his books. Period. And I just want to say that, you
5 know.

6 I mean, the sales tax that I declared is perfect,
7 and I have nothing wrong with it except a few items like
8 the difference in the bank statement and the amount of tax
9 I declared to the government. It was perfect, and I see
10 no wrong with that. Plus, I ask you, you know, if there
11 is -- and any other item, it's fine with me, you know.
12 You can consider it. But also, I would like to consider
13 the decision of this be a penalty.

14 JUDGE BROWN: This is Judge Brown.

15 MR. ISSA: That's all I have to say.

16 JUDGE BROWN: Thank you. This is Judge Brown I
17 was going to ask if that concludes Appellant's
18 presentation, and it sounds like you're saying, yes, it
19 does.

20 MR. ISSA: It does. I conclude what I said.

21 JUDGE BROWN: Okay. This is Judge Brown. Next,
22 I will ask if CDTFA has any questions for the witness, for
23 Mr. Galoian?

24 MR. SHARMA: This is Ravinder Sharma. The
25 Department has no question.

1 JUDGE BROWN: This is Judge Brown. Thank you.

2 Now I will -- we will have questions from the
3 panel, from myself or my fellow judges for Appellant,
4 either for the witness or for Mr. Issa.

5 Judge Kwee, do you have any questions for the
6 witness or for Mr. Issa?

7 JUDGE KWEE: Hi. This is Judge Kwee. Yes, I did
8 have a question for the taxpayer, Mr. Galoian. During
9 your testimony you mentioned that you had known Mr. Issa
10 and used him for about 40 years or maybe more than
11 40 years. And I was curious, or I was asking because the
12 CDTFA decision mentioned that your business first started
13 with an effective date in 2012. So I was just curious if
14 you had a prior seller registered with BOE or CDTFA before
15 2012, or was 2012 your first business?

16 MR. GALOIAN: No. 2012 I start my business, but
17 before, that my personal things I was giving to Mr. Issa,
18 my personal taxes. Hello.

19 JUDGE KWEE: This is Judge Kwee. Thank you. So
20 I guess this was -- 2012 was your first seller's permit
21 experience then. Is that what I understand?

22 MR. GALOIAN: Yes.

23 JUDGE KWEE: Okay. Thank you.

24 MR. GALOIAN: But before that, there was some
25 personal taxes. He was doing my personal tax so -- all

1 these 40 years. I know him very long time. And then when
2 I start my Hollywood Collision Center in 2012, I bring my
3 business to him too.

4 JUDGE KWEE: This is Judge Kwee. Thank you. I
5 understand now. And I did have one other question. As
6 far as the ratio of work that you do, it looks like you do
7 insurance work and then also not insurance work. I was
8 curious what percentage would you say is insurance work
9 and work not involving insurance?

10 MR. GALOIAN: Very small percentage I'm doing
11 with, you know, insurance work. I'm doing insurance work.
12 Non-insurance work if the customer pay. I do both, but
13 insurance work I don't have too much. It's not too much.
14 Percentage you want to know. I don't know. I cannot tell
15 you exactly. I can be wrong. I don't know. Some month
16 it's a lot. Some months it's very little on that. Yeah.
17 Maybe -- I don't know. Maybe 20 percent. 20, 30 percent
18 maybe.

19 JUDGE KWEE: Okay. And I think this is my last
20 question is just is your markup for parts, is it about the
21 same for insurance work and for non-insurance work? Or do
22 you think you have different markup ratios depending on
23 the type of job you're doing, insurance versus
24 non-insurance?

25 MR. GALOIAN: What do you mean markup?

1 JUDGE KWEE: By markup, I mean, if you purchase,
2 say a part for \$10, and then when you bill the insurance
3 company or the customer, it would be the amount you're
4 charging, you know, the customer for the part is like the
5 amount that you --

6 MR. GALOIAN: No. It's the same thing, but the
7 customer sometimes wants used parts. I'm giving them used
8 parts. Sometimes they want aftermarket parts. I'm giving
9 them aftermarket parts. Sometimes the insurance
10 companies -- same thing with insurance companies. They
11 give sometimes used parts. They give, you know, the new
12 parts. But some, you know, it's the same -- same thing.
13 It's not -- same -- same -- what I -- there is an estimate
14 guide we are using for giving the estimates. And on the
15 estimate guide, all the parts and labor is there. If I'm
16 putting used parts, I'm putting used parts. If it's new
17 parts, I'm giving new parts. Same thing.

18 JUDGE KWEE: Okay. Thank you very much. I don't
19 have any further questions. So I'll turn it back to the
20 lead judge.

21 JUDGE BROWN: Thank you. This is Judge Brown.
22 Judge Long, do you have any questions for
23 Appellant or the witness?

24 JUDGE LONG: This is Judge Long. I have no
25 questions. Thank you.

1 JUDGE BROWN: Okay. This is Judge Brown. I
2 think then we are ready to move on to CDTFA's
3 presentation.

4 And I believe, Mr. Sharma, are you doing the
5 presentation today.

6 MR. SHARMA: This is Ravinder Sharma. That's
7 correct. I'm doing the presentation.

8 JUDGE BROWN: Okay. This is Judge Brown.
9 Mr. Sharma, you can -- oh, hold on just a moment. I hear
10 background noise.

11 (Whereas a phone is ringing.)

12 Okay. This is Judge Brown. We are ready to go.
13 Mr. Sharma, you can go ahead with your presentation on
14 behalf of CDTFA whenever you're ready.

15 MR. SHARMA: Sure.

16

17 PRESENTATION

18 MR. SHARMA: Thank you. This is Ravinder Sharma.

19 Appellant, as sole proprietorship, operated an
20 auto repair and body shop in Hollywood, California, since
21 October 2012. The Department performed an audit
22 examination for the period of April 1, 2016, through
23 March 31st, 2019. Appellant reported total sales of
24 approximately \$2.3 million, claimed total deduction of
25 around \$1.3 million, resulting in reported taxable sales

1 of \$1 million for the audit period. Claimed deductions
2 consistent of approximately \$1.2 million for labor, little
3 more than \$98,000 in sales tax, and \$8,000 for resale and
4 others. That's Exhibit A, page 12.

5 Records available for the audit period.
6 Appellant provided only federal income tax returns for
7 years 2016 to 2018, bank statements for the audit period
8 and job folders for June 2018. However, Appellant did not
9 provide point of sale reports, sales summary reports,
10 sales journals, purchase invoices, purchase journals, or
11 profit and loss statements for the audit period. During
12 the audit process, Appellant informed the Department that
13 Appellant used sales invoices and bank statements to
14 prepare and file quarterly sales and use tax returns.

15 However, due to lack of sales records the
16 Department could not verify the accuracy of reported
17 amounts. The Department compared reported taxable sales
18 with cost of goods sold per federal income tax returns and
19 arrive at negative markup of approximately 10 percent for
20 2016 to 2018; Exhibit A, page 25. Negative markup means
21 reported taxable sales was less than the cost of goods
22 sold.

23 Based on the above analysis, the Department
24 determined that Appellant's books and records was
25 unreliable and inadequate for sales and use tax purposes.

1 In the absence of reliable books and records, the
2 Department used an indirect audit method to verify the
3 accuracy of reported amounts and to determine unreported
4 taxable sales.

5 The Department conducted a shelf test using
6 Appellant's job folders for June 2018. Shelf test showed
7 a markup of approximately 46 percent; Exhibit A, pages 18
8 to 21. The Department used cost of goods sold of a little
9 more than \$1.1 million for federal income tax returns,
10 Exhibit A, page 27, and a markup of approximately
11 46 percent, Exhibit A, page 21, to compute taxable sales
12 of approximately \$1.66 million for 2016, 2017, and 2018,
13 which when compared to Appellant's reported taxable sales
14 of approximately \$1.02 million for the same period,
15 resulting in an error rate of approximately 62 percent;
16 Exhibit A, page 17.

17 The Department multiplied above error rate to the
18 reported taxable sales from the audit period and
19 determined unreported taxable sales of little more than
20 \$656,000 for the audit period; Exhibit A, page 16. To
21 show that audits are reasonable, the Department used
22 taxable sales to total sales ratio method. Based on
23 Department's experience, calculated audited taxable sales
24 ratio of approximately 59 percent appears to be reasonable
25 and acceptable; Exhibit A, page 28.

1 Appellant had not provided any documentary
2 evidence to show that cost of goods sold of little more
3 than \$1.1 million for federal income tax return is not
4 correct, and audited markup of 46 percent is not correct.
5 The Department added a 10 percent negligence penalty to
6 the total assessment. Understatement is 62 percent of the
7 reported taxable sales, which is due to negligence in
8 keeping required books and records for sales and use tax
9 purposes as mandated by Revenue & Taxation Code 7053 and
10 Regulation 1698.

11 Appellant contends that bank deposits represent
12 all sales, including cash sales. In response, the
13 Department submits that all sales would conclude credit
14 card sales and cash sales, bank statements, and then
15 compared with merchant statements would confirm that all
16 credit card sales were deposited into the bank. But the
17 accuracy of cash sales could not be confirmed from bank
18 statements unless they are supported by complete sets of
19 books and records, such as point of sale sales reports,
20 individual sales invoices, and deposit slips.

21 Despite various requests, Appellant did not
22 provide any supporting documents for the audit period so
23 that the Department could verify the accuracy of cash
24 sales. In the absence of complete sales records and cash
25 paid out, bank statements do not represent all sales as

1 claimed by Appellant.

2 Based on the above, the Department has fully
3 explained the basis for the deficiency and proved that the
4 determination was reasonable based on the available books
5 and records. Further, the Department has used approved
6 audit methods to determine the deficiency. Therefore,
7 based on the evidence presented, the Department requests
8 that the Appellant's appeal be denied.

9 This concludes my presentation, and I'm available
10 to answer any questions you may have. Thank you.

11 JUDGE BROWN: This is Judge Brown. Thank you.

12 Now we will have questions for CDTFA.

13 Judge Kwee, do you have any questions for CDTFA?

14 JUDGE KWEE: Hi. This is Judge Kwee. And yes, I
15 did have one question for CDTFA about the calculation of
16 the markup, which was Schedule 12B. So there it list, you
17 know, the purchase price and then the sales price, which
18 was pulled off the insurance estimate. And I'm just
19 asking when they're talking about the sales price, is that
20 referring to the sales price just for the part, or did the
21 sales price include the labor in installing the part?

22 MR. SHARMA: This is Ravinder Sharma. For the
23 shelf test, selling price is for the part only.

24 JUDGE KWEE: Okay. That was perfect. That was
25 my only question. Thank you.

1 MR. SHARMA: Thank you.

2 JUDGE BROWN: This is Judge Brown. Judge Long,
3 do you have any questions for CDTFA?

4 JUDGE LONG: This is Judge Long. I have no
5 questions.

6 JUDGE BROWN: This is Judge Brown. Thank you.

7 I don't think that I have any questions for
8 CDTFA, and so I will say that --

9 MR. ISSA: Hello.

10 MR. GALOIAN: Hello.

11 JUDGE BROWN: I will say that I believe we can
12 move on to hearing Appellant's rebuttal argument.

13 Mr. Issa, you can make a -- you get this
14 opportunity to make a final argument and address anything
15 that CDTFA raised or anything that -- anything else you
16 want to conclude that you want the judges to consider in
17 this case.

18 MR. ISSA: Yes, Judge Brown.

19

20 CLOSING STATEMENT

21 MR. ISSA: You know I from the beginning, I
22 disagreed with the CDTFA finding. The guy -- Mr. Sharma
23 said that I have lack of records. I give every single
24 item to the auditor for one, and he applied this to all
25 coming years, which is really wrong. And I did not. He

1 said that I unreported taxable income. There is no way.
2 I never, never unreported taxable income. I -- I -- I
3 don't know from where he brings these figures for me. I
4 completely disagree with them. From the beginning I told
5 them that.

6 When they audit somebody, they ask for the
7 records. I gave him every single piece of -- of proof to
8 conduct the records. I never had any -- any piece of
9 paperwork from them. And they come up with this report,
10 all kinds of figures. Plus, you mean my client stole
11 about \$600,000. He put it in his pocket. That's
12 impossible.

13 And, you know, when I give him the records he
14 took only for one year everything. Everything. The bank
15 statement from me. He took the sales reports and
16 basically all the invoices. I mean, this guy came up with
17 any discrepancies he's wrong. He's absolutely wrong. The
18 auditor made a big mistake. He make figures from nowhere.
19 I completely disagree with the report. I have specified,
20 and I repeat that I gave the guy every single piece of
21 work to conduct the audit, and he came up with creative
22 report.

23 I'm not here to ask, you know, for charity, you
24 know. You know, asking about the fact. The fact is the
25 report. This is wrong. I don't know from where -- they

1 come up with these figures. When I give them all the
2 papers, the one I received from my clients, the one he
3 give me every month to do the work, he got it. Why he
4 came up with this discrepancy? And then utilize
5 everything for me. This -- this is wrong.

6 JUDGE BROWN: This is Judge Brown. Mr. Issa,
7 does that conclude your rebuttal argument?

8 MR. ISSA: Yeah. I -- that is my rebuttal, you
9 know. There's nothing to say more than that, you know.

10 JUDGE BROWN: All right this --

11 MR. ISSA: He shouldn't tell you I have lack of
12 record. I don't like that.

13 JUDGE BROWN: All right. This is Judge Brown.
14 If I have heard all of Appellant's rebuttal argument, I
15 will just turn to my co-panelist and confirm that they
16 don't have any further questions. And -- sorry.

17 This is Judge Brown. Sorry. Go ahead.

18 MR. ISSA: I -- I don't like the idea that, you
19 know, he applied one year to all these computations.
20 It's -- it's wrong. It's absolutely wrong. I mean --

21 JUDGE BROWN: This is Judge Brown. Mr. Issa, you
22 said that's the end of your argument, so I will say that
23 we're going to wrap up.

24 Since my co-panelist and I don't have any further
25 questions, and I have heard the arguments from both

1 parties, I will say that we can conclude the hearing. And
2 now the record is closed, and the case is submitted.

3 The judges will meet and decide the case based on
4 the evidence arguments and applicable law. And we will
5 mail both parties our written decision no later than
6 100 days from today.

7 The hearing is now adjourned.

8 MR. ISSA: Okay.

9 JUDGE BROWN: Thank you all very much for your
10 participation.

11 We're off the record.

12 (Proceedings adjourned at 2:03 p.m.)

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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for the State of California, do hereby certify:

That the foregoing transcript of proceedings was taken before me at the time and place set forth, that the testimony and proceedings were reported stenographically by me and later transcribed by computer-aided transcription under my direction and supervision, that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am in no way interested in the outcome of said action.

I have hereunto subscribed my name this 2nd day of June, 2022.

ERNALYN M. ALONZO
HEARING REPORTER